



[Billing Code: 4810–31–P]

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB–2014–0006; T.D. TTB–128; Ref: Notice No. 144]

RIN: 1513–AC09

Establishment of the Fountaingrove District Viticultural Area

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) establishes the approximately 38,000-acre “Fountaingrove District” viticultural area in Sonoma County, California. The viticultural area lies entirely within the larger, multicounty North Coast viticultural area. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

DATES: This final rule is effective [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; phone 202–453–1039, ext. 175.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated various authorities through Treasury Department Order 120-01 (Revised), dated December 10, 2013, to the TTB Administrator to perform the functions and duties in the administration and enforcement of this law.

Part 4 of the TTB regulations (27 CFR part 4) authorizes TTB to establish definitive viticultural areas and regulate the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth standards for the preparation and submission of petitions for the establishment or modification of American viticultural areas (AVAs) and lists the approved AVAs.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features, as described in part 9 of the regulations, and a name and a delineated boundary, as established in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to the wine's geographic origin. The establishment of AVAs allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of an AVA is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations (27 CFR 4.25(e)(2)) outlines the procedure for proposing an AVA and provides that any interested party may petition TTB to establish a grape-growing region as an AVA. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions for the establishment or modification of AVAs. Petitions to establish an AVA must include the following:

- Evidence that the area within the proposed AVA boundary is nationally or locally known by the AVA name specified in the petition;
- An explanation of the basis for defining the boundary of the proposed AVA;

- A narrative description of the features of the proposed AVA affecting viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed AVA distinctive and distinguish it from adjacent areas outside the proposed AVA boundary;
- The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed AVA, with the boundary of the proposed AVA clearly drawn thereon; and
- A detailed narrative description of the proposed AVA boundary based on USGS map markings.

Fountaingrove District Petition

TTB received a petition from Douglas Grigg of Walnut Hill Vineyards, LLC, on behalf of the Fountaingrove Appellation Committee, proposing the establishment of the “Fountaingrove District” AVA in Sonoma County, California, northeast of the city of Santa Rosa. The committee originally proposed the name “Fountaingrove,” after the 19th Century utopian community of Fountaingrove that once existed within the region of the proposed AVA. Before the publication of the proposed rule, the committee submitted to TTB a request to change the name to “Fountaingrove District” in order to avoid affecting current use of the word “Fountaingrove,” standing alone, in brand names on wine labels. The proposed AVA covers approximately 38,000 acres and has approximately 35 commercially-producing vineyards covering a total of 500 acres.

The proposed Fountaingrove District AVA is located entirely within the larger, multicounty North Coast AVA (27 CFR 9.30). The proposed AVA shares

its boundaries with the established Russian River Valley (27 CFR 9.66), Chalk Hill (27 CFR 9.52), Knights Valley (27 CFR 9.76), Calistoga (27 CFR 9.209), Diamond Mountain District (27 CFR 9.166), Spring Mountain District (27 CFR 9.143), and Sonoma Valley (27 CFR 9.29) AVAs but does not overlap any of these AVAs.

According to the petition, the distinguishing features of the proposed Fountaingrove District AVA are its topography, climate, and soils. The proposed AVA is located on the western slopes of the Mayacmas Mountains and features low, rolling hills as well as higher, steeper mountains with southwest-facing slopes. The Sonoma Mountains, along the southwestern boundary of the proposed AVA, shelter the proposed AVA from the strongest marine breezes and heaviest fog, but an air gap in the mountains does allow some cooling air and fog into the proposed AVA. The moderate temperatures within the proposed Fountaingrove District AVA are suitable for growing cabernet sauvignon, chardonnay, sauvignon blanc, merlot, cabernet franc, zinfandel, syrah, and voignier grape varieties. The proposed AVA contains a variety of different soils, but most of the soils are derived from Sonoma Volcanic and Franciscan Formation bedrock and consist of volcanic materials, such as pumiceous ashflow tuff and basalt lava. The soils contain high levels of iron, which is essential for healthy vine growth, but also contain high levels of nickel, which can be toxic to grapevines unless the soil is ameliorated to reduce the level.

To the west of the proposed Fountaingrove District AVA, the established Russian River Valley AVA is a low, broad valley with cooler temperatures and

soil derived from river deposits. To the north, the Knights Valley AVA is warmer than the proposed AVA and contains broad stream valleys with soils derived from river deposits. Also to the north of the proposed AVA is the Chalk Hill AVA, which has temperatures and topography similar to the proposed AVA, but has soils that are derived primarily from river deposits. To the east, the Calistoga, Diamond Mountain District, and Spring Mountain District AVAs have northeast-facing slopes, warmer temperatures, and less soil diversity. To the south, the Sonoma Valley AVA is a large, broad valley with soils derived from river deposits and temperatures that are warmer than those of the proposed AVA.

Notice of Proposed Rulemaking and Comments Received

TTB published Notice No. 144 in the **Federal Register** on June 30, 2014 (79 FR 36683), proposing to establish the Fountaingrove District AVA. In the notice, TTB summarized the evidence from the petition regarding the name, boundary, and distinguishing features for the proposed AVA. The notice also compared the distinguishing features of the proposed AVA to the surrounding areas. For a detailed description of the evidence relating to the name, boundary, and distinguishing features of the proposed AVA, and for a detailed comparison of the distinguishing features of the proposed AVA to the surrounding areas, see Notice No. 144.

In Notice No. 144, TTB solicited comments on the accuracy of the name, boundary, and other required information submitted in support of the petition. In addition, TTB solicited comments on whether the geographic features of the proposed Fountaingrove District are so distinguishable from the established

North Coast AVA that the proposed AVA should not be part of the established AVA. The comment period closed on August 29, 2014.

Comments Received

In response to Notice No. 144, TTB received a total of four comments, all of which supported the establishment of the Fountaingrove District AVA.

Commenters included three local vineyard and winery owners and one person who listed no affiliation. All of the comments generally supported the establishment of the proposed AVA due to its distinctive climate and soils and its long history as a wine region. One comment (comment 4) also supported the establishment of the proposed AVA as a way to honor the accomplishments of Kanaye Nagasawa, a Japanese citizen who managed the vineyards and winery of the Fountaingrove community and became one of the most prominent wine makers in California during the early 1900s.

The comments did not raise any new issues concerning the proposed AVA. TTB received no comments opposing the establishment of the Fountaingrove District AVA. TTB also did not receive any comments in response to its question of whether the proposed Fountaingrove District AVA is so distinguishable from the established North Coast AVA that the proposed AVA should not be part of the established AVA.

TTB Determination

After careful review of the petition and the comments received in response to Notice No. 144, TTB finds that the evidence provided by the petitioner supports the establishment of the Fountaingrove District AVA. Accordingly,

under the authority of the FAA Act, section 1111(d) of the Homeland Security Act of 2002, and part 4 of the TTB regulations, TTB establishes the “Fountaingrove District” AVA in Sonoma County, California, effective 30 days from the publication date of this document.

TTB has also determined that the Fountaingrove District AVA will remain part of the established North Coast AVA. As discussed in Notice No. 144, the Fountaingrove District AVA receives some of the marine breezes and fog that are the primary characteristics of the North Coast AVA. However, the Fountaingrove District AVA is also a unique microclimate within the larger AVA because the Mayacmas Mountains shelter the Fountaingrove District AVA from the strongest breezes and heaviest fog. Additionally, due to its smaller size, the Fountaingrove District AVA is more uniform in its geographical and climatic characteristics than the much larger, multicounty North Coast AVA.

Boundary Description

See the narrative description of the boundary of the AVA in the regulatory text published at the end of this final rule.

Maps

The petitioner provided the required maps, and they are listed below in the regulatory text.

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. For a wine to be labeled with an AVA name or with a brand name that includes an AVA

name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible for labeling with an AVA name and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the AVA name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Different rules apply if a wine has a brand name containing an AVA name that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

With the establishment of this AVA, its name, “Fountaingrove District,” will be recognized as a name of viticultural significance under § 4.39(i)(3) of the TTB regulations (27 CFR 4.39(i)(3)). The text of the regulation clarifies this point. Consequently, wine bottlers using the name “Fountaingrove District” in a brand name, including a trademark, or in another label reference as to the origin of the wine, will have to ensure that the product is eligible to use the AVA name as an appellation of origin. TTB is not designating “Fountaingrove,” standing alone, as a term of viticultural significance due to the current use of “Fountaingrove,” standing alone, as a brand name on wine labels.

The establishment of the Fountaingrove District AVA will not affect any existing AVA, and any bottlers using “North Coast” as an appellation of origin or in a brand name for wines made from grapes grown within the North Coast AVA will not be affected by the establishment of this new AVA. The establishment of

the Fountaingrove District AVA will allow vintners to use “Fountaingrove District” and “North Coast” as appellations of origin for wines made primarily from grapes grown within the Fountaingrove District AVA if the wines meet the eligibility requirements for the appellation.

Regulatory Flexibility Act

TTB certifies that this regulation will not have a significant economic impact on a substantial number of small entities. The regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of an AVA name would be the result of a proprietor’s efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

It has been determined that this final rule is not a significant regulatory action as defined by Executive Order 12866 of September 30, 1993. Therefore, no regulatory assessment is required.

Drafting Information

Karen A. Thornton of the Regulations and Rulings Division drafted this final rule.

List of Subjects in 27 CFR Part 9

Wine.

The Regulatory Amendment

For the reasons discussed in the preamble, TTB amends title 27, chapter I, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

2. Subpart C is amended by adding § 9.250 to read as follows:

§ 9.250 Fountaingrove District.

(a) Name. The name of the viticultural area described in this section is “Fountaingrove District.” For purposes of part 4 of this chapter, “Fountaingrove District” is a term of viticultural significance.

(b) Approved maps. The four United States Geological Survey (USGS) 1:24,000 scale topographic maps used to determine the boundary of the Fountaingrove District viticultural area are titled:

- (1) Mark West Springs, CA; 1993;
- (2) Calistoga, CA; 1997;
- (3) Kenwood, CA; 1954; photorevised 1980; and
- (4) Santa Rosa, CA; 1994.

(c) Boundary. The Fountaingrove District viticultural area is located in Sonoma County, California. The boundary of the Fountaingrove District viticultural area is as described below:

- (1) The beginning point is on the Mark West Springs map at the intersection of the shared Sonoma–Napa County line with Petrified Forest Road, section 3, T8N/R7W.

(2) From the beginning point, proceed southeasterly along the Sonoma–Napa County line, crossing onto the Calistoga map and then the Kenwood map, to the marked 2,530-foot peak of an unnamed mountain, section 9, T7N/R6W; then

(3) Proceed west-southwest in a straight line to the marked 2,730-foot summit of Mt. Hood, section 8, T7N/R6W; then

(4) Proceed west-northwest in a straight line to the marked 1,542-foot summit of Buzzard Peak, section 11, T7N/R7W; then

(5) Proceed west-southwest in a straight line, crossing onto the Santa Rosa map, to the intersection of State Highway 12 and Los Alamos Road; then

(6) Proceed due north in a straight line to the southern boundary of section 9, T7N/R7W; then

(7) Proceed west-northwest along the southern boundaries of sections 9, 4, and 5, T7N/R7W, to the western boundary of the Los Guilicos Land Grant; then

(8) Proceed west-southwest along the southern boundaries of sections 5, 6, and 7, T7N/R7W; then continue west-southwest along the southern boundaries of sections 12 and 11, T7N/R8W, to the point where the section 11 boundary becomes concurrent with an unnamed light-duty road known locally as Lewis Road; and then continue west-southwest along Lewis Road to the road's intersection with Mendocino Avenue in Santa Rosa; then

(9) Proceed north-northwesterly along Mendocino Avenue to the road's intersection with an unnamed road known locally as Bicentennial Way; then

(10) Proceed north in a straight line, crossing through the marked 906-foot elevation peak in section 35, T8N/R8W, and, crossing on to the Mark West Springs map, continue to the line's intersection with Mark West Springs Road, section 26, T8N/R8W; then

(11) Proceed northerly along Mark West Springs Road, which turns easterly and becomes Porter Creek Road, to the road's intersection with Franz Valley Road, section 12, T8N/R8W; then

(12) Proceed northeasterly along Franz Valley Road to the western boundary of section 6, T8N/R7W; then

(13) Proceed south along the western boundary of section 6, T8N/R7W, to the southwest corner of section 6; then

(14) Proceed east, then east-northeast along the southern boundaries of sections 6, 5, and 4, T8N/R7W, to the southeast corner of section 4; then

(15) Proceed north along the eastern boundary of section 4, T8N/R7W, to the Sonoma–Napa County line; then

(16) Proceed easterly along the Sonoma–Napa County line to the beginning point.

Signed: January 15, 2015.

Mary G. Ryan,

Acting Administrator.

Approved: January 21, 2015.

Timothy E. Skud,

Deputy Assistant Secretary
(Tax, Trade, and Tariff Policy).

[FR Doc. 2015-03371 Filed 02/17/2015 at 8:45 am; Publication Date: 02/18/2015]